



## ABAC Adjudication Panel Determination No 39/24

**Product:** Purr Shot  
**Company:** Purr Shot  
**Media:** Digital (Facebook, Instagram & TikTok)  
**Date of decision:** 1 April 2024  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Professor Richard Mattick  
Ms Debra Richards

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 29 February 2024 in relation to digital marketing promoting Purr Shot (“the product”).
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
  - (a) Commonwealth and State laws:
    - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
    - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
    - State liquor licensing laws – which regulate the retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
  - ABAC Responsible Alcohol Marketing Code (“ABAC Code”) – which is an alcohol-specific code of good marketing practice;
  - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
  - Outdoor Media Association Code of Ethics and Policies – which place restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meet the standards contained in the ABAC.
4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
5. The complaint is independently assessed by the Chief Adjudicator and Ad Standards and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

### **The Complaint Timeline**

7. The complaint was received on 29 February 2024.
8. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of

materials and advice and the availability of Panel members to convene and decide the issue. The complaint was completed in this timeframe.

## Pre-vetting Advice

9. A component of the ABAC Scheme is an advice service by which an alcohol marketer can obtain an independent opinion of a proposed alcohol marketing communication against the ABAC standards prior to public release. Pre-vetting advice is separate from the complaint process and does not bind the Panel but represents best practice on behalf of alcohol marketers. Pre-vetting advice was not obtained for the content of the marketing.

## The Marketing

10. The complaint referred to the following digital advertisements.

### Social Media Post 1 – Facebook & Instagram



### Social Media Post 2 – TikTok Video

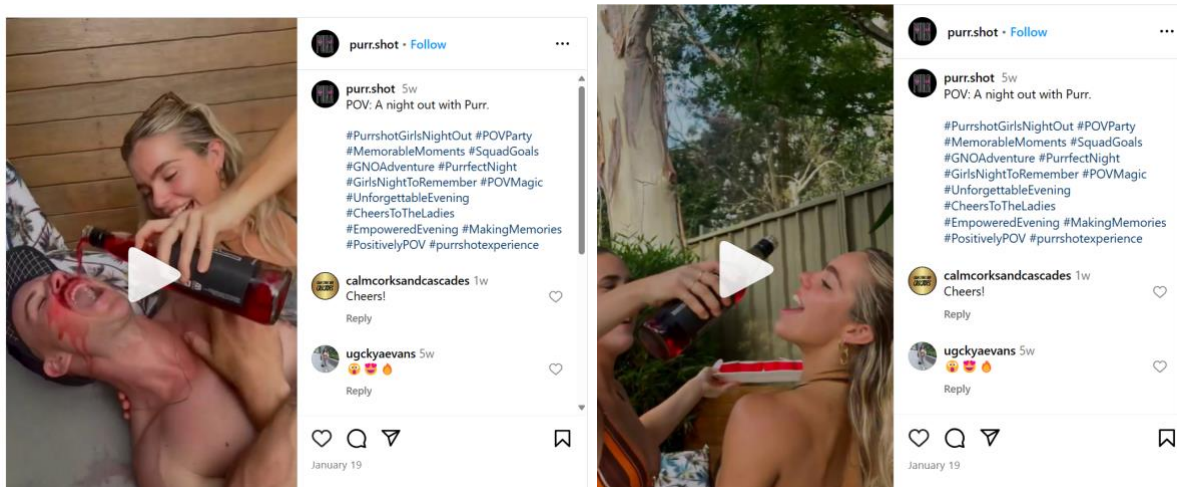
[Link to Post 2 on TikTok](#) (Video)



**Social Media Post 3 – Facebook & Instagram**



**Social Media Post 4 Instagram (Video)**



## Complaint

11. The complainant is concerned that:
- *The advertisements in these posts encourage people to consume the product in an inappropriate and excessive manner. This is evidenced by the pouring of alcohol directly into the mouth of the model/influencer.*
  - *The advertisement encourages rapid and excessive consumption of alcohol as evidenced by the copy text 'one shot two shot three shot four shot'.*
  - *Within the overall context of these videos is the theme that drinking alcohol excessively will result in more fun and enjoyment. This is evidenced by the caption 'what do you do for fun? Our answer is simple SHOTS, shots and more shots!'.*

## The ABAC Code

12. Part 3 of the Code provides that a marketing communication must not:
- (a)(i) show (visibly, audibly or by direct implication), encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce the Health Risks from Drinking Alcohol, such as:
    - (A) Excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day);
  - (a)(ii) show (visibly, audibly or by direct implication), encourage, or treat as amusing, rapid Alcohol consumption, misuse of abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol;
  - (c)(i) suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment;

## The Company Response

13. The Company responded to the complaint by email on 13 March 2024 advising:
- Social media post 1 " 1 shot 2 shot 3 shot 4" & Social media post 3 "shots shots and more shots" - The text in both posts are lyrics to a popular song.
  - Post 3 "what do you do for fun" - Point of view videos have been trending across social media. We did a POV: what do you do for fun post which showed our models laughing and having a drink. We didn't show sad models have a drink and be in a "fun" mood

- Our intention was never to promote excessive drinking. We can see how this can be interpreted as irresponsible drinking and have removed the posts.
- We use a social media agency for our social media accounts. Moving forward we have had a meeting with our account manager and will be careful of what we post and the text we use. We will proof the content weekly before posting.

### **The Panel's View**

14. Purr Shot is a range of three flavoured alcoholic beverages that appear to have entered the market in November 2023. The Company maintains social media accounts on Instagram, Facebook and Tik Tok as well as operating a website. This determination arises from a complaint concerning a series of posts on the social media platforms.
15. The complainant is concerned that the posts promote rapid, inappropriate and excessive alcohol consumption and suggest that drinking the product will result in more fun and enjoyment. These concerns enliven three Code standards:
  - that an alcohol marketing communication must not show (visibly, audibly or by direct implication), encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce the Health Risks from Drinking Alcohol, such as excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day) - Part 3 (a)(i));
  - that an alcohol marketing communication must not show (visibly, audibly or by direct implication), encourage, or treat as amusing , rapid Alcohol consumption, misuse of abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol -Part 3 (a)(ii); and
  - that an alcohol marketing communication must not suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment - Part 3(c)(i));
16. The Company has responded that their intention was not to promote excessive drinking, however they can see how the posts can be interpreted in this way. Upon receiving the complaint, the Company advised they had removed the posts, however at the time of writing, several of the posts are still visible on the Company's facebook page. The Company committed to an improved process with its social media agency going forward.
17. It is evident that each of the posts either in the video images and/or the accompanying text breach the Part 3(a)(ii) standard by:

- showing rapid and uncontrolled consumption of a person having alcohol poured directly into their mouth;
  - the text '1 shot, 2 shot, 3 shot, 4' and 'shots, shots and more shots';
  - showing the drinking of multiple shots of the products (noting the product has alc/vol of 17%); and
  - the inclusion of the hashtag '#shots on repeat'.
18. The Company noted the '1 shot, 2 shot, 3 shot, 4' reference comes from the lyrics of a song and is not a direct call to action to consume excessively. The song was not identified but likely refers to the Eminem rap 'One Shot Two Shot' that is about a shooting at a nightclub and not drinking as such. That said, in the context of the posts the phrase would be understood by a reasonable person as relating to alcohol consumption.
19. Social media post 3 shows an alcohol drink being served while superimposed with the text, 'What do you do for fun?', with this statement also included in the caption of the post followed by the words 'Shots, shots and more shots'. The standard in Part 3 (c)(i) provides that there can be no suggestion that the consumption or presence of alcohol contributes to an improvement in mood or environment.
20. The Panel believes that this phrase accompanied by the serving of an alcohol beverage and the answer 'Shots, shots and more shots' suggests that alcohol is a means or contributor to having fun, in breach of Part 3(c)(i) of the Code.
21. The Company is strongly encouraged to have its staff and that of its media agency familiarise themselves with the ABAC standards. There are extensive training and education resources available from the ABAC website that are free to the Company to use. The ABAC pre-vetting service can also provide independent advice of major campaign and branding materials of the Company prior to release onto the market.
22. The complaint is upheld.